

ITEM: 9

SUBJECT: Management Agency Agreement with the U.S. Bureau of Reclamation Addressing Salinity in the Lower San Joaquin River – Consideration of approval of an agreement containing revisions proposed by the Bureau

DISCUSSION: On 31 July 2008, the Regional Board approved a proposed Management Agency Agreement (MAA) between the Regional Board and the United States Bureau of Reclamation (Reclamation) addressing salt imported into the San Joaquin River Basin via the Delta-Mendota Canal (DMC). At that time, Reclamation requested more time to consider the MAA as approved and to possibly negotiate changes to the agreement. The Board authorized the Executive Officer to enter into further discussions with Reclamation, and to sign the MAA on the Board's behalf provided no substantive changes were made to the agreement. The Board also directed the Executive Officer to request a report of waste discharge (RWD) from Reclamation if they did not sign an MAA by 22 August 2008.

On 5 August 2008, the Executive Officer sent a copy of the approved MAA along with a letter to Reclamation's Regional Director explaining the actions the Board had taken. The letter indicated that prompt action would be required if the August 22 2008 deadline for signing the MAA were to be met and invited the Regional Director to set up a meeting with the Executive Officer to discuss concerns Reclamation had regarding the approved MAA. Reclamation did not respond to this letter, and consequently, on 22 August 2008, a RWD request letter, setting a 26 September submittal deadline, was issued.

The Executive Officer requested a meeting with Reclamation's Regional Director. They met on 4 September 2008 and Reclamation's concerns regarding the MAA were discussed. The Executive Officer requested that the Regional Director submit Reclamation's proposed changes to the MAA in a letter to the Executive Officer. On 10 September 2008, Reclamation staff emailed their proposed MAA revisions. The proposed revisions are significant enough to warrant Board review.

On 29 September 2008, the Regional Board received a letter from Reclamation in response to the Board's request for a RWD. The letter did not include a RWD, and stated that Reclamation maintains the position that water delivered through the DMC is not a waste discharge. The letter did however indicate that Reclamation wants to address salinity issues in the San Joaquin River, sees the MAA as a vehicle that would allow both agencies to cooperate in that effort, and wishes to continue negotiations on

the MAA.

There are two attachments to this item. The first is the MAA approved by the Board on 31 July 2008 with revisions proposed by the Bureau highlighted in bold and strikeout to indicate additions and deletions, respectively. The second is the Bureau version of the document with changes recommended by staff. Reclamation has prepared a document entitled *Actions to Address the Salinity and Boron TMDL Issues for the Lower San Joaquin River*, which is referenced in the MAA. There are no proposed changes to this document and it is not attached.

RECOMMENDATION: Pursue resolution of the issue on two tracks. The first would be to continue to negotiate the MAA language with Reclamation, and the second would be to initiate preparation of waste discharge requirements that would implement the Basin Plan limits if the MAA were unsuccessful.

Mgmt. Review _____
Legal Review _____
23 and 24 October 2008
11020 Sun Center Dr. #200
Rancho Cordova, CA 95670